

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KENNETH LUMAN, et al.,
Plaintiffs,

v.

No. CV 20-200 WJ/CG

BALBACH TRANSPORT, INC., et al.,
Defendants,

LUIS TREJO, et al.,
Third-Party Plaintiffs,

v.

KENNETH LUMAN, et al.,
Third-Party Defendants,

BALBACH TRANSPORT, INC.,
Counterclaimant,

v.

KENNETH LUMAN, et al.,
Counter-Defendants,

LUIS TREJO,
Third-party Plaintiff,

v.

KENNETH LUMAN, et al.,
Third-party Defendants,

LUIS TREJO,
Counterclaimant,

v.

GREENWOOD MOTOR LINES, INC., et al.,
Counter-Defendants.

ORDER GRANTING MOTION TO COMPEL

THIS MATTER is before the Court on Plaintiffs' *Motion to Compel Responses to Requests for Admission* (the "Motion"), (Doc. 125), filed June 10, 2021. In the Motion,

Plaintiffs request that the Court “deem admitted all subparts of [Requests for Admission] 1–44 which were neither admitted nor denied” by Defendants Balbach Transport Inc. and Luis Trejo. (Doc. 125 at 8). Plaintiffs ask in the alternative that the Court “overrule Defendants’ objections and [] compel proper responses” to these subparts. *Id.* at 8. Plaintiffs also ask that the Court “order Defendants to either remove their objections, or to remove their answer, to every request they denied, including subpart D of RFAs 1-22, and subparts E and F of RFAs 23-44.” *Id.* at 8-9.

Defendants have filed no response to the Motion, and the time for doing so has now passed. See D.N.M.LR-Civ. 7.4(a) (“A response must be served and filed within fourteen (14) calendar days after service of the motion.”). Under Local Rule 7.1(b), “[t]he failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” The Court will therefore **GRANT** the Motion.

IT IS THEREFORE ORDERED that Plaintiffs’ *Motion to Compel Responses to Requests for Admission*, (Doc. 125), is **GRANTED**.

IT IS FURTHER ORDERED that all Requests for Admission which were neither admitted nor denied by Defendants, as set forth in the Motion, shall be deemed **ADMITTED**.

IT IS FINALLY ORDERED that Defendants’ objections to those Requests for Admission Defendants denied, as set forth in the Motion, are **OVERRULED**.¹

¹ Plaintiffs did not, in their Motion, request fees or costs. See (Doc. 125). The Court therefore declines to award such. See Fed. R. Civ. P. 37(a)(5)(A) (requiring Court to award reasonable expenses and attorney fees unless “other circumstances make an award of expenses unjust”).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE